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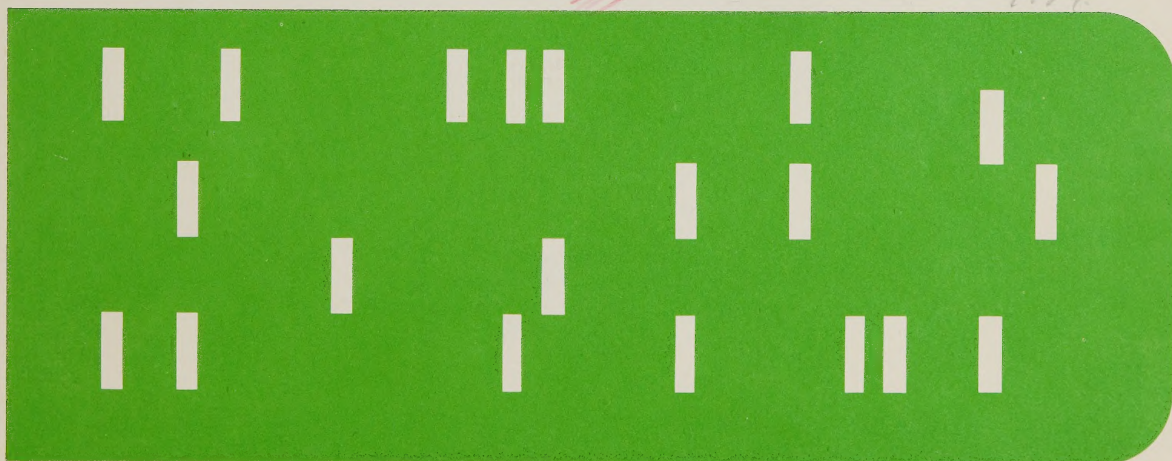



DOING BUSINESS IN CANADA



LABOUR LEGISLATION

1974





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DOING BUSINESS IN CANADA

Labour Legislation

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FOREWORD

The information in this booklet deals with labour legislation in Canada and has particular significance for employers in the manufacturing industry. It is intended as a guide in this field of legislation and as such, refers only to the basic principles involved.

Every effort has been made to accurately reflect the legislation in force at the time of preparing the material. However, since the law contains a considerable amount of detail, and in many cases varies from province to province, it is suggested that an enquirer consult with relevant provincial or federal authorities when seeking precise and detailed advice on a given problem.

Other publications in the series "Doing Business in Canada" are:

The Business Environment

Forms of Business Organization

Canadian Customs Duties

Taxation — Income, Business, Property

Taxation — Sales, Excise, Commodity

Construction and Equipment Standards

Federal Incentives to Industry

Patents, Copyrights and Trade Marks

Tariff Preferences for Canadian Goods Abroad

Also available:

Financing Canadian Industry

Revised 1974

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INTRODUCTION

Labour legislation in Canada is usually concerned with local working conditions or contracts of service between employers and employees and between members of a trade union.

The British North America Act, which delegates legislative powers to the Parliament of Canada and the provincial legislatures, grants to the provinces the right to enact laws in relation to "property and civil rights" and, with certain exceptions, "local works and undertakings." Such being the case labour legislation in Canada is in large part a product of provincial enactment.

Employment in factories, for example, is usually subject to provincial regulations regarding employment of young persons, maximum hours of work, minimum rates of pay, annual vacations with pay and certain minimum standards for the health and safety of the employee. The most important piece of

legislation, however, is that dealing with unionization. Matters such as wage rates, hours of work and fringe benefits are normally settled through collective bargaining.

Workers in industries within federal jurisdiction are subject to the Canada Labour Code. Included are industries and undertakings of a national, interprovincial or international nature, such as railways, highway transport, pipelines, canals and telephone, telegraph and cable systems, where any of these undertakings connect a province with another province or with another country. Shipping and services connected with shipping, air transport, radio and television broadcasting, banks, grain elevators, flour and feed mills and uranium mining are also industries within federal jurisdiction.

Labour ordinances have also been enacted by the territorial councils of the Northwest and Yukon Territories.

MANPOWER SERVICES

In response to the manpower needs of Canadian employers, the Department of Manpower and Immigration provides services that include filling job vacancies with qualified workers; assisting in manpower planning and upgrading employee skills; assisting in labour force adjustment in firms undergoing technological and other changes; and providing local or national labour market information for employers.

Through a national network of 400 Canada Manpower Centres (CMC), a placement service is available to employers. Job Information Centres may publicly display employers' job orders to attract employees quickly. If qualified workers are not available locally, the CMC, through a national clearance sys-

tem, will search other parts of Canada or even other countries (through Canadian immigration offices abroad). Should an employer decide to travel abroad to interview candidates, he may be assisted with newspaper advertising and overseas interviewing facilities.

Training to upgrade employees' skills is frequently a major expenditure for employers. The Department of Manpower and Immigration, through the Canada Manpower Industrial Training Program, may assist with costs, if training materially improves the employability of prospective trainees or is otherwise in the public interest.

The Department can also provide labour market information, such as wage rates and employee supply and demand.

CANADA MANPOWER CONSULTATIVE SERVICE

The Canada Manpower Consultative Service of the Department of Manpower and Immigration can assist management and labour in dealing with the manpower adjustment problems that stem from technological or economic change. Methods of solving such problems are based on the principles of joint consultation, early planning and the co-ordinated application of private, federal and provincial measures and programs, including

training and mobility. In addition, financial incentives facilitate the joint development and implementation of manpower adjustment plans in the plant or industry.

Enquiries may be directed to the Canada Manpower Consultative Service, Department of Manpower and Immigration, Ottawa, Ontario K1A 0J9 or to its regional offices in Halifax, Montreal, Toronto, Winnipeg and Vancouver.

MINIMUM AGE

All provinces have legislation that stipulates a minimum age for employment in factories and, in most instances, other work places. Compulsory school attendance laws in each province and territory forbid the employment of school age children during school hours.

The minimum age for employment in British Columbia is 15 years while New Brunswick and Nova Scotia specify a minimum age of 16; however, provision is made in all three provinces for exceptions by permit from the Minister of Labour. The minimum age for

employment in factories in Prince Edward Island is 15 and 16 in Newfoundland, Manitoba and Saskatchewan.

In Ontario and Alberta, the minimum age is 15, but children must attend school until the age of 16. In Quebec, the minimum age is 16 but 15-year-olds may be employed during school holidays with a permit. In certain dangerous occupations, the minimum age is 16 for boys and 18 for girls. In others, boys under 18 may not be employed and the employment of girls is entirely forbidden.

APPRENTICESHIP AND TRADESMEN'S QUALIFICATIONS

All provinces and the two territories have apprenticeship laws providing for an organized program of on-the-job training and school instruction in designated skilled trades. On completion of apprenticeship, a certificate is issued by the appropriate board. Statutory

Provision is made in most provinces for the issuing of certificates of qualification, on application, to qualified tradesmen in certain trades. In some provinces, certain tradesmen must hold certificates of competency in order to work in their field.

MINIMUM WAGE

All jurisdictions in Canada have minimum wage laws from which minimum wage rates are set. These rates are reviewed frequently. In all cases, a general rate has been set, but some provinces have also established special rates for certain industries and occupations, such as construction or logging, and for students, young or inexperienced workers. (See Appendix A for a table of minimum hourly wage rates for experienced adults.)

Industrial standards legislation in Ontario, Alberta, Newfoundland, New Brunswick, Nova Scotia, Prince Edward Island and Saskatchewan provides the means whereby wages and hours of work can be discussed at a conference of a representative group of employers and employees in a trade or industry. When agreement is reached, these standards can be made legally binding throughout the trade or industry. Such laws have been applied chiefly to the building trades, barbering and, in Ontario, the fur industry and some branches of the clothing industry. In Newfoundland, New Brunswick, Nova Scotia and Prince Edward Island, the acts have been applied to the construction trades only. An advisory committee, usually representing employers and employees, is established to assist in enforcing a schedule.

The Collective Agreement Decrees Act in

the Province of Quebec is similar in nature to the industrial standards legislation of the other provinces. Under the act, the terms of a collective agreement between employers and trade unions representing a certain industry may be made binding by government decree on all employers and employees in the province or in a stated area. Decrees under this act cover a large part of Quebec industry. The parties to a collective agreement that has been made legally binding must form a parity committee to ensure the enforcement of the decree.

The Quebec construction industry is governed by the Construction Industry Labour Relations Act, which is similar in principle to the Collective Agreement Decrees Act. It requires multiparty, multitrade bargaining in the industry.

The Construction Industry Wages Act in Manitoba provides for the setting of minimum rates of wages and maximum hours of work at regular rates for employees in the construction industry based on the recommendations of a board equally representative of employers and employees. A schedule for each sector of the industry, issued annually, sets hourly rates of wages and the regular work week for various classifications of construction work.

HOURS OF WORK

The federal government, six provinces and the two territories have hours of work laws of general application.

Federal employment is governed by the Canada Labour Code which sets standard hours of eight in a day and 40 in a week, after which overtime at one-and-one-half times the regular rate must be paid, and limits weekly hours to a maximum of 48.

In the two territories, standard hours are eight in a day and 48 in a week for most employees, with maximum hours of 10 in a day and 60 in a week. In the Yukon there is a monthly maximum of 260 hours.

In Alberta and British Columbia, maximum hours are eight in a day and 44 in a week and in Ontario, eight in a day and 48 in a week. Maximum hours in Nova Scotia are set at 48 in a week.

The Manitoba and Saskatchewan acts regulate hours through the requirement that one and one-half times the regular rate must be paid if work is continued after specified hours. In Saskatchewan, payment of the overtime rate is required after eight and 40 hours, and in Manitoba after eight and 44 hours.

In all the jurisdictions described above, provision is made for exceptions to, and variations in, the hours of work requirements.

Under all the acts, daily hours may be increased (in Manitoba and Saskatchewan, without payment of overtime rates) to provide for a five or five-and-a-half-day week, or a four-day week in Saskatchewan, as long as weekly hours are not exceeded. Except in Saskatchewan, the acts stipulate that hours may be exceeded in emergencies.

ANNUAL VACATIONS AND PUBLIC HOLIDAYS

Most employees throughout Canada are legally entitled to a paid annual vacation. Two weeks with pay after a year of employment is the general standard. Ontario provides for one week after the first year of employment and two weeks thereafter. In Manitoba employees are entitled to a three-week vacation after five years of employment, while Saskatchewan provides for a three-week vacation after four years of employment and four weeks after 15 years.

The Nova Scotia Labour Standards Code

provides for five general holidays; according to Manitoba legislation, most employees are entitled to seven paid holidays a year; the Canada Labour Code and the laws of Alberta, British Columbia, Saskatchewan and the Northwest Territories provide for eight holidays and the Yukon Territory for nine. Manitoba also has a special act dealing with Remembrance Day. In Ontario, an overtime rate must be paid when employees work on any of the seven public holidays.

FAIR EMPLOYMENT PRACTICES AND EQUAL PAY

Fair employment practices laws prohibiting discrimination in hiring, conditions of employment and trade union membership on grounds of race, colour, religion or national origin are in force throughout Canada. These prohibitions are also applicable to employment agencies in most jurisdictions.

The Alberta, Manitoba, New Brunswick and Quebec laws forbid employers' associations to discriminate in membership. A similar prohibition is directed in New Brunswick and Nova Scotia at professional, business or trade associations that control admission to or the practice of any occupation or calling or admission to any business or trade. In Alberta and Manitoba the legislation is also aimed at occupational associations.

Alberta, British Columbia, New Brunswick, Newfoundland and Ontario forbid discrimination in employment and trade union membership on grounds of age. All jurisdictions except the federal, Prince Edward Island and the Yukon prohibit employment discrimination on the basis of sex. Only Alberta, New Brunswick, Ontario and the Northwest Territories forbid discrimination in employment on grounds of sex and marital status. Discrimina-

tion in the membership of trade unions and employers' organizations because of marital status is forbidden in Alberta, New Brunswick, Ontario, the Northwest Territories and Manitoba; Manitoba and Alberta also prohibit such discrimination in the membership of occupational groups.

These acts contain further prohibitions regarding the publication of advertisements, the use of application forms and the making of enquiries in connection with employment that express or imply discrimination on any of the forbidden grounds or which require an applicant to furnish information as to his race, colour, religion or national origin. Most of the acts allow an exception, however, where a preference is based upon a bona fide occupational qualification. In Quebec, the Yukon and the federal jurisdiction, employers with fewer than five employees are excluded from the act.

All jurisdictions except Quebec have supplemented these laws with legislation requiring equal pay for equal work without discrimination on grounds of sex. The definition of what constitutes equal work varies.

WORKMEN'S COMPENSATION

In all provinces compensation is provided for workmen in most types of industrial employment who sustain personal injury by accident resulting from and in the course of employment unless they are disabled for less than a stated number of days and to the dependents of such workmen if death results from an industrial accident. Compensation is also payable for specified industrial diseases.

Each workmen's compensation act provides for an accident fund administered by a workmen's compensation board to which em-

ployers are required to contribute and from which compensation and medical benefits are paid. The acts thus provide for a system of compulsory collective liability, relieving employers of individual responsibility for accident costs. The assessment rate for each class of industry is fixed by the board according to the hazards of the class.

Workmen to whom these provisions apply have no right of action against their employers for injury from an accident occurring in the course of employment.

INDUSTRIAL RELATIONS

All Canadian jurisdictions have legislation governing collective bargaining. These laws guarantee freedom of association and the right of employees and employers to organize; establish machinery for the certification of a trade union as the exclusive bargaining agent for an appropriate unit of employees; and require an employer and a certified trade union to bargain collectively to conclude a collective agreement covering wages and other terms of employment. Unfair practices provisions place limitations on employers and on employees or their unions regarding interference with each other's rights.

Under all the acts, government conciliation services are available to assist the parties to reach agreement. A strike or lockout is forbidden while such conciliation is in progress. A collective agreement is binding on both parties and while in force, work stoppages

are prohibited and disputes must be settled through a grievance procedure and, if necessary, arbitration.

In some jurisdictions, the coverage of the industrial relations act has been extended in varying degrees to unions voluntarily recognized by the employer.

In British Columbia, an employers' organization may be accredited as the exclusive bargaining agent for a group of employers. In Alberta, New Brunswick, Ontario, Nova Scotia, Prince Edward Island and Newfoundland this provision is limited to the construction industry. Quebec requires multiparty, multitrade bargaining in the construction industry — five employer and two employee organizations are recognized as representative and must bargain together for one collective agreement leading to a decree.

INDUSTRIAL SAFETY AND HEALTH

Laws in most jurisdictions establish safeguards for the protection of the health and safety of workers with respect to such matters as sanitation, heating, lighting, noise, ventilation and the guarding of machinery. Long established laws regulating the design, construction, installation and operation of mechanical equipment, such as boilers and other pressure vessels, elevators and electri-

cal installations, have been revised in recent years in line with technological changes. Legal standards have been set in new fields involving hazards to workers and to the public such as in the use of gas and oil burning equipment. Laws requiring safety standards to be observed in construction and excavation work are in force in most provinces.

NOTICE OF TERMINATION OF EMPLOYMENT

In addition to the federal government, the provinces of Alberta, Manitoba, Newfoundland, Nova Scotia, Ontario, Prince Edward Island, Quebec and Saskatchewan have legislation requiring an employer to give notice to the individual worker whose employment is to be terminated. Notice periods may range from one to eight weeks. Manitoba, Nova Scotia, Newfoundland, Prince Edward Island and Quebec also place an obligation on the employee to give notice to his employer before quitting his job.

Manitoba, Ontario, Quebec, Nova Scotia and the federal government require an employer to give advance notice of a projected dismissal or layoff of a group of employees

in order to permit government authorities to develop and carry out programs to find alternative employment. In Quebec, notice must be given where 10 or more persons are being dismissed within a two-month period; in Nova Scotia, 10 or more employees within a four-week period; and, in the federal industries, Manitoba and Ontario, 50 or more persons within four weeks or less. The periods of notice vary with the number of employees being dismissed but range from eight weeks to four months.

In the federal jurisdiction, employees with five or more years of service are entitled to severance pay on termination of employment.

MATERNITY LEAVE

The federal government and the provinces of Manitoba, Saskatchewan, Ontario, British Columbia, New Brunswick and Nova Scotia require employers to provide unpaid maternity leave and prohibit dismissal because of pregnancy. Ontario, British Columbia and New Brunswick provide for 12 weeks of

maternity leave, six weeks before and six weeks after childbirth; the federal, Manitoba, and Nova Scotia laws provide for 17 weeks, 11 before and six after childbirth. Finally, Saskatchewan provides for 18 weeks of maternity leave, 12 weeks before and six weeks after childbirth.

UNEMPLOYMENT INSURANCE

Workers who become unemployed may qualify for unemployment insurance benefits under a federal government program administered by the Unemployment Insurance Commission (UIC). Practically all employment is now insurable. The self-employed are still excluded but wherever a contract of service exists, premiums are collected from both employers and employees. Certain employment outside Canada is also insurable.

The UIC specifies the employer and employee premium amounts each year, but since 1971, Revenue Canada, Taxation collects these premiums and rules on what kinds of occupations shall be insurable. Employers remit monthly to Revenue Canada, Taxation all money deducted from employees for unem-

ployment insurance premiums, income tax and Canada Pension Plan (except in Quebec). All of these deductions are listed on one return, which saves duplication of payroll audits. The amounts to be deducted are set out in tables which employers can obtain from Revenue Canada, Taxation, Ottawa, Ontario K1A 0L5, or from one of the District Taxation Offices in Canada's major cities.

Information on the Quebec Pension Plan can be obtained by writing to the Quebec Pension Board, P.O. Box 5200, Quebec City, Quebec G1K 7S9.

Premium rates for employers and employees can be reduced for those companies that provide sickness or disability insurance or other wage loss replacement plans that

meet the standards set by the UIC. For further information, write to the nearest UIC office and ask for a copy of "Employer Guide — Wage Loss Replacement Plan Registration."

Under certain carefully defined conditions, benefits may be payable to those who have become unemployed due to layoff, sickness, quarantine or pregnancy. The benefit rate is usually two thirds of the employee's previous earnings (or 75 per cent in some cases). However, there is a maximum weekly benefit rate that is adjusted every year. In 1973, the average weekly benefit paid was \$68.45, while the weekly maximum was \$107.

The duration of these benefits varies in each case. In the early stages it is related to the individual's length of previous attachment to the work force. In the later stages it depends on the national unemployment rate, or a combination of the national and regional unemployment rates. Cases are reviewed periodically and efforts are made to help the individual return to full-time employment as soon as possible.

For further information, contact the Unemployment Insurance Commission, 222 Nepean Street, Ottawa, Ontario K1A 0J5.

APPENDIX A

MINIMUM HOURLY WAGE RATES FOR EXPERIENCED ADULTS

Federal	\$2.20 from April 1, 1974
Alberta	\$2.00 from April 1, 1974
British Columbia	\$2.50 from June 3, 1974
Manitoba	\$1.90 from October 1, 1973
New Brunswick	\$1.90 from July 1, 1974 \$2.15 from January 1, 1975 \$2.30 from July 1, 1975
Newfoundland	\$2.00 from July 1, 1974 \$2.20 from January 1, 1975
Nova Scotia	\$1.80 from July 1, 1974
Ontario	\$2.00 from January 1, 1974
Prince Edward Island	\$1.75 from July 1, 1974
Quebec	\$2.10 from May 1, 1974 \$2.15 from November 1, 1974
Saskatchewan	\$2.00 from December 1, 1973
Northwest Territories	\$2.00 from September 1, 1973
Yukon Territory	\$2.30 from April 1, 1974

APPENDIX B

LIST OF PUBLICATIONS

The following list of publications represents a selection likely to be of interest to persons doing business in Canada. All titles listed with a price should be ordered from Information Canada, Ottawa, Ontario K1A 0S9. A remittance must accompany the order and be made payable to the Receiver-General of Canada. All titles marked free should be ordered from Publications Division, Labour Canada, Ottawa, Ontario K1A 0J2.

TITLE	CATALOGUE NO.	PRICE \$
Provisions in Major Collective Agreements (twice yearly)		Free
Wage Determination in Canada	L2-26/3	.50
Labour Gazette (monthly)	L12-1	.60
Canada Labour Code		
Part I — Fair Employment Practices	YX75-L-1-1970/71-1	Free
Part III — Employment Standards	YX75-L-1-1970/71-3	Free
Part IV — Safety of Employees	YX75-L-1-1970/71-4	Free
Part V — Industrial Relations	YX75-L-1-1972-5	Free
Women in the Labour Force, Facts & Figures	L38-3072	Free
Canadian Government Annuities	UIC-P102 (274)	Free
Canada Department of Labour Annual Report	L1-1973	Free
Wage Rates, Salaries and Hours of Labour, 1973		
Volume 1 — Community Rates	L2-556/1	2.50
Volume 2 — Industry Rates	L2-556/2	2.50
Working Conditions in Canadian Industry, 1972	22-15/1972	2.00
Manpower Consultative Service	MP-45-5-1974	Free
Labour Standards in Canada, Ottawa, 1973	L2-7/1973	1.00
Labour Organizations in Canada, 1973	L2-2/1973	1.50
Teamwork in Industry (monthly)	L12-3-/23	Free
Collective Bargaining Review (monthly)		Free
Labour Force	CS71-001	2.00
Fair Employment Laws in Canada		Free
National Industrial Relations Film Library		Free
Safety Film Catalogue	L36-1871	Free
Catalogue of Training Courses in Occupational Safety and Health	L36-1771	Free
The Law relating to Working Women (1973)		Free
Productivity, Costs and Prices	L41-1173	3.75
Minimum Wage Rates in Canada		Free
Human Rights in Canada		Free

Published by the Department of Industry, Trade and Commerce, Ottawa, Canada
Publié par le ministère de l'Industrie et du Commerce, Ottawa, Canada
Information Canada
Ottawa, 1974

Catalogue Number: C2-3874/14
(aussi édité en français)
(auch auf Deutsch erhältlich)